

UNITED STATES BANKRUPTCY COURT
DISTRICT OF PUERTO RICO

IN RE:
JOSE A BARBOSA ESTRADA
ELIZABETH ALEMAR JIMENEZ

DEBTOR (S)

CASE NO. 10-07904-ESL

CHAPTER 13

**TRUSTEE'S UNFAVORABLE REPORT
ON PROPOSED PLAN CONFIRMATION UNDER §1325**

TO THE HONORABLE COURT: NOW COMES, José R. Carrión, Chapter 13 Trustee, and very respectfully alleges and prays:

This is the Trustee's position regarding the request, under **11 U.S.C. §1325**, for the confirmation of a Chapter 13 Plan.

Debtor(s)' Income: **Above Median / 60 months commitment period.**

Gen Unsecured Pool: **\$0.00**

The **LIQUIDATION VALUE** of the estate has been determined in **\$3,324.00**

R2016 STM. \$3,000.00

TOTAL ATTORNEYS FEES THRU PLAN: \$2,574.00 Fees paid: \$0.00 Fees Outstanding: \$2,574.00
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With respect to the proposed (amended) Plan dated: **March 25, 2011** (Dkt 49).

Plan Base: **66,000.00**

The proposed (amended) plan can not be confirmed because it has the following deficiencies:

- Insufficiently Funded to pay 100% of §507 priority claims.[§1322(a)(2)]

Plan is insufficiently funded to pay priority claims filed by the Internal Revenue Service (Claim 4) and the Department of the Treasury (Claims 15 and 16). Minimum plan base must be, approximately, \$69,000.00.

- Feasibility [§1325(a)(6)]

Debtors must submit to the Trustee evidence of the option of purchase for their residence executed between them and Samuel Villafañe. Since a great part of the plan will be funded through the sale of such property, the option contract is needed to determine feasibility of plan.

- Feasibility [§1325(a)(6)]: Default in payments to Trustee.

Debtors is \$300.00 in arrears in payments to the Trustee (one payment).

- Feasibility [§1325(a)(5)]: Plan fails to provide for an allowed secured claim.

Plan does not provide for secured claim filed by Westgate Vacation Villas Owners (Claim 6). Since such claim pertains to a Time Share Resort, which is a luxury item, Debtors must provide for the surrender of the collateral.

- Fails Disposable Income Test [11 U.S.C. §1325(b)]

Debtors must amend Schedule I to include benefits received from food stamps and amend plan accordingly.

Due to the above described deficiencies in the proposed plan the Trustee Objects to the Confirmation of the same.

CERTIFICATE OF SERVICE: The Chapter 13 Trustee herewith certifies that a copy of this motion has been served via first class mail on the same date it is filed to: the DEBTOR(s), and to her/his/their attorney through CM-ECF notification system.

In San Juan, Puerto Rico this March 28, 2011.

/s/ Jose R. Carrion

/s/ Alexandra Rodriguez -Staff Attorney

JOSE R. CARRION
CHAPTER 13 TRUSTEE
PO Box 9023884, San Juan, PR 00902-3884
Tel. (787) 977-3535 Fax (787) 977-3550

ARD